



Dan Skopec
Acting Secretary

State Water Resources Control Board

Office of Chief Counsel

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P.O. Box 100, Sacramento, California 95812-0100
♦ <http://www.waterboards.ca.gov>



Arnold Schwarzenegger
Governor

NOTICE OF PUBLIC HEARING ON STAY REQUEST

The State Water Resources Control Board will hold a hearing to consider whether a stay should remain in effect on

Petition of Humboldt Watershed Council and
Environmental Protection Information Center
(Enrollment of Pacific Lumber Company Timber Harvesting Plans
under General Waste Discharge Requirements, Order No. R1-2004-0030)
SWRCB/OCC File No. A-1692

Monday, May 15, 2006, 11:00 a.m.

(The meeting begins at 10:00 am but this item will not be heard before 11:00 a.m.)

**Cal/EPA Building
1001 I Street
Coastal Room, 2nd Floor
Sacramento, California**

PURPOSE OF HEARING

The State Water Resources Control Board (State Water Board) has previously issued an order staying the effects of the decision of the Executive Officer of the North Coast Regional Water Quality Control Board to enroll additional timber harvest plans proposed by Pacific Lumber Company (Palco) for coverage under its General Waste Discharge Requirements Order No. R1-2004-0030 (General Order), pending resolution of the petition on its merits. (Order No. WQ 2005-0006.) The State Water Board then issued a ruling on the merits of two petitions filed by the Humboldt Watershed Council (HWC) et al. (Order No. WQ 2005-0009.) The Order sustained the petitions, vacating enrollments under the General Order and preventing further enrollments. That order was challenged in court and a decision was rendered on April 26, 2006, by Judge John K. Letton, sitting by special assignment in the Humboldt County Superior Court, reversing and remanding that order. In his decision, the judge directed the State Water Board to "forthwith schedule a hearing to be held not later than May 15, 2006 to determine whether such a stay should remain in effect pending the Board's hearing on the merits of HWC's petitions." The State Water Board will hold a hearing to consider the issue.

The purpose of this hearing is to receive any relevant testimony or evidence and to hear policy statements on whether the stay should remain in effect, thus prevent Palco from harvesting under the General Order. The court gave no direction on how this issue should be resolved so the bases for a stay will be based on the regulatory criteria for a stay in California Code of Regulations, title 23, section 2053. A stay of all or any portions of the enrollment may be granted only if petitioner alleges facts and produces proof of (1) substantial harm to itself or to the public interest if a stay is not granted, (2) a lack of substantial harm to other interested persons and to the public interest if a stay is granted, and (3) substantial questions of fact or law

regarding the permit. The record will include the record from the original stay request and hearing, documents submitted in response to this Notice, and the hearing on May 15.

The hearing will be held on **Monday, May 15, 2006, no earlier than 11:00 a.m.** The hearing will be conducted by the full State Water Board. At the hearing, the State Water Board will receive oral and written testimony and policy statements on the issue described above. No additional evidence of any kind will be accepted into the record at this hearing. (Requirements for submission of evidence are discussed below.) All persons who wish to provide information relating to whether the stay should be issued may submit policy statements at the hearing.

HEARING PARTICIPATION

Participants at the hearing are either “parties” or “interested persons.” Parties to the hearing may present evidence and are subject to cross-examination. Parties may also cross-examine other parties’ witnesses. Cross-examination is limited to testimony and evidence.

Parties and interested persons may present non-evidentiary policy statements. Interested persons are not subject to cross-examination and may not cross-examine other parties. Parties may be cross-examined only regarding evidence they submit and not policy statements. Parties must clearly identify any portion of their presentations that are policy statements. Policy statements may refer to evidence in the record and must be limited to **five pages, double-spaced, with a font no smaller than 12.**

The following participants are hereby designated as parties at the hearing:

1. Humboldt Watershed Council,
2. North Coast Regional Water Quality Control Board,
3. The so-called Owners Group, and
4. Pacific Lumber Company.

No additional parties will be designated. All designated parties must submit the following no later than **5:00 p.m. on May 10, 2006**: (a) the evidence and exhibits that will be presented, (b) a list of witnesses and a detailed summary of the testimony to be presented, and (c) references to evidence in the administrative record that should be considered by the State Water Board. All submissions shall be made to:

Ms. Song Her
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor [95814]
P.O. Box 100
Sacramento, CA 95812-0100
(tel) 916-341-5600
(fax) 916-341-5620
(email) commentletters@waterboards.ca.gov

The State Water Board will strictly enforce the deadlines, page limits, and limits on oral presentations and written submissions described herein.

Oral testimony that goes beyond the scope of written submissions will be excluded. Parties who propose to offer expert testimony must include a statement of qualifications of the expert witness. Parties must submit all documents to the State Water Board and must send one copy to each of the other parties. Parties may make electronic submissions. Interested persons may submit one copy of policy statements in advance to the State Water Board only.

HEARING PROCEDURES

To ensure that everyone has an opportunity to participate in the hearing, the following time limits will apply. Each of the parties listed above, and any other party that is designated, will have up to a total of 30 minutes to present evidence, testimony, cross examination, and policy statements. Interested persons will have up to 5 minutes to present a policy statement. Interested persons with similar concerns should participate in a joint presentation, and the hearing officer may limit such statements if they are repetitive. Participants are expected to avoid redundant comments. Additional time may be approved by the hearing officer upon a showing that such time is necessary.

The hearing will be conducted in accordance with the State Water Board's regulations governing adjudicative proceedings and the Administrative Procedure Act (APA). The State Water Board's regulations are in the California Code of Regulations, title 23, section 648 et seq. (<http://www.calregs.com>) and will be provided upon request. The APA provisions are at California Government Code section 11400 et seq. The hearing will not be conducted as a formal hearing under Chapter 5 of the APA (commencing at Gov. Code § 11500).

CLOSED SESSION

The State Water Board may meet in closed session to deliberate on a decision to be made based on evidence taken at the hearing. The closed session is authorized under Government Code section 11126, subdivision (c)(3).

LOCATION AND ACCESSIBILITY

The Cal/EPA Building is accessible to people with disabilities. Public parking is available across the street from the building. A map of the exact location is attached to this notice.

Individuals who require special accommodations are requested to contact Adrian Perez at (916) 341-5880 at least five (5) working days prior to the hearing.

IF YOU HAVE ANY QUESTIONS

Questions concerning the hearing may be addressed to Theodore A. Cobb, Assistant Chief Counsel at (916) 341-5171 or at tcobb@waterboards.ca.gov.

May 3, 2006

Date



Song Her
Clerk to the Board

